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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,361	11/19/2003	James F. Desmond	P02784	9536
28548	7590	11/23/2005		
STONEMAN LAW OFFICES, LTD			EXAMINER	
3113 NORTH 3RD STREET			TAWFIK, SAMEH	
PHOENIX, AZ 85012			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/718,361	DESMOND, JAMES F.	
	<b>Examiner</b> Sameh H. Tawfik	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 29 October 2004.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-61 is/are pending in the application.  
 4a) Of the above claim(s) 1-15, 33-46 and 58-60 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 16-32, 47-57 and 61 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group 7 (claims 47-49) in the reply filed on 10/29/2004 is acknowledged. The traversal is on the ground(s) that the claims in each of the groups identified by the examiner, clearly comprise similar elements and would not place undue burden on the examiner. This is not found persuasive because the examiner as set in the previous restriction requirement of paper number 09292004 to the differences between the groups and the different search required for each group, which will require more search and therefore burdening the examiner.

Claims 16-32, 47-57, and 61 have been examined.

The requirement is still deemed proper and is therefore made FINAL.

This application contains claims 1-15, 33-46, and 58-60 drawn to an invention nonelected with traverse in Paper No. 10292004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19-22, 25-30, 47-57, 61 are rejected under 35 U.S.C. 102(b) as being anticipated by Romano (5,803,093).

Romano discloses an adapted element system for assisting pouring of a flowable substance from at least one first container (Fig. 5; via 122) having at least one adapter cap comprising at least one Yorker tip (via 124) to at least one second container (Fig. 4, 6, and 7; via tubes and fingers in 300) having at least one threaded opening (Fig. 8; via thread 614); comprising at least one receiving adapter element (via 124) comprising at least one access structured and arranged to flowably connect with the at least one Yorker tip of such at least one adapter cap (Fig. 5); at least one threaded port structured and arranged to connect with the at least one threaded opening (Fig. 8); wherein the flowable substance may be transferred through such adapter cap (128) connected to such receiving adapter element directly from the at least one second container (Figs. 4, 6, and 7).

Regarding claim 48: wherein the at least one threaded port is adapted to be used with at least one flexible squeeze tube (via squeeze bottle 122).

Regarding claim 49: wherein the at least one access is adapted to be used with at least one flexible squeeze tube (5; via 122).

Regarding claim 50: comprising at least one adapted cap (124).

Regarding claim 51: comprising the at least one second container (Fig. 4; via 300).

Regarding claim 52: wherein the at least one second container comprises at least one flexible squeeze tube (Fig. 4; via plastic 314; column 4, lines 8-12).

Regarding claim 53: wherein the at least one second container is smaller than the at least one first container (Figs. 4 and 5).

Regarding claim 54: wherein the at least one flexible squeeze tube is structured and arranged so that it can be folded to expel air from within such flexible squeeze tube (Figs. 4 and 5).

Regarding claims 25 and 55: further comprising at least one o-ring structured and arranged to assist in providing a seal between the at least one receiving adapter element and the at least one second container (Fig. 5; via 124 and 126).

Regarding claim 56: further comprising the at least one adapter cap (124).

Regarding claims 57 and 61: the at least one second container comprises at least one empty flexible squeeze tube body portion (column 4, lines 8-11; via plastic 314 is squeezable) having at least one first end and at least one second end (Figs. 6 and 7); wherein the at least one empty flexible squeeze tube body portion is new and unused for containment (inherent before the use the container is new and containment); wherein the at least one first end comprises a reclosable access system wherein the reclosable access system when closed seals such at least one first open end (column 3, lines 32-34); and wherein the at least one second end comprises a permanent “linear” tube type seal closure (Figs. 4, 6, and 7; via second end of tube 302).

Regarding claim 19: at least one syringe (Figs. 4, 6, and 7; via 300, 400, and 500 can be consider as syringe, since they dispense liquid to human body portion).

Regarding claim 20: wherein the at least one syringe comprises a catheter syringe with a capacity of about sixty cubic centimeters, see for example (Figs. 6 and 7).

Regarding claim 21: wherein the at least one syringe further comprises at least one tube (Figs. 6 and 7).

Regarding claim 22: wherein the at least one tube is between one-eighth inch and one-half inch plastic flexible tubing (Figs. 6 and 7; via fingers and tube 302).

Regarding claim 26: wherein the at least one second container comprises at least one spout (Figs. 6 and 7; via portions 306).

Regarding claims 27 and 28: wherein the at least one spout comprises at least one non-spill valve (via by not squeezing the first container 122 will effect in not spilling from spout 306); and lanyard, see for example (Figs. 4-14).

Regarding claim 29: wherein the at least one second container comprises at least one flexible bag (Figs. 4, 6, and 7; via plastic 314).

Regarding claim 30: wherein the at least one flexible bag comprises at least a bottom gusset (Fig. 4; via support portion 308).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-18, 23, 24, 31, and 32 rejected under 35 U.S.C. 103(a) as being unpatentable over Romano (5,803,093).

Romano does not disclose the receiving adapter element comprises a plurality of receiving adapter elements; second container comprises a plurality of second containers; nor a plurality of squeeze tubes. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Romano's system by having a plurality of receiving adapter elements; second container comprises a plurality of second containers; and a plurality of squeeze tubes, in order to duplicate each part for extra use and/or replacing any damaged part by the customer, since it has been held that mere duplication of the essential working parts of a device/part involves only routine skill in the art. St. Regis Paper Co. v. Bemis Co., 193 USPQ 8.

Regarding claim 23: Romano does not disclose a travel-bag structured and arranged to hold and portably transport the plurality of second containers and the plurality of receiving adapter elements. However, the examiner takes an official notice that such travel bag to container human's needs is known, old, and available in the art.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Romano's system, by having a travel bag to container and hold the containers and adapters, as a matter of engineering design choice, in order to make it convenient carrying the product around.

Regarding claim 24: Romano discloses at least one second container comprising a first capacity (Fig. 6) and at least one second container comprising a second capacity (Fig. 8).

Regarding claim 31: it is inherent that Romano's system will disclose a set of instructions to advise customers with the best way of using the system.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sameh H. Tawfik  
Patent Examiner  
Art Unit 3721



ST.